

## **FACTSHEET**

**TITLE: USE PERMIT NO. 129, VAVRINA MEADOWS  
GENERIC USE PERMIT**, requested by Brian D. Carstens and Associates on behalf of R.C. Krueger Development Company, for 115,000 sq. ft. of commercial floor area, with requests to adjust and reduce required setbacks, on property generally located on South 14<sup>th</sup> Street, ½ mile south of Pine Lake Road.

**STAFF RECOMMENDATION:** Conditional approval, as set forth in the staff report dated May 19, 2000.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 05/31/2000  
Administrative Action: 05/31/2000

**RECOMMENDATION:** Conditional approval (6-1: Schwinn, Newman, Carlson, Steward, Bayer and Taylor voting 'yes'; Duvall voting 'no'; Krieser and Hunter absent).

### **FINDINGS OF FACT:**

1. The Planning staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.5-7, concluding that:
  - A. The generic use permit is acceptable provided the drive thru facilities, convenience store/gas pumps, and car wash are located west of S. 15<sup>th</sup> Street excluding the lots that abut a residential district, and the standard side and rear yards abutting a residential district are devoted entirely to landscaping and open green space.
  - B. There is no apparent reason to grant the requested reduction of the standard 20' side yard and 50' rear yard when abutting a residential district and such waiver should not be granted.
  - C. There is no justification to reduce the front yard along S. 14<sup>th</sup> Street especially considering the Public Works & Utilities Department is anticipating an 82' pavement width in S. 14<sup>th</sup> Street which would locate the edge of pavement 9' from the property line. The standard is 17' between the edge of pavement and the property line.
  - D. Except for the request to reduce yards abutting the residential district and along S. 14<sup>th</sup> Street, the plan is acceptable with revisions as requested by the city staff.
2. The applicant's testimony is set forth on p.11-13, including proposed amendments to the conditions of approval (See Minutes, p.11-13 and p.15).
3. There was no testimony in opposition.
4. The Planning Commission discussion with the applicant and with the staff regarding the proposed amendments to conditions of approval is found on p.12-13.
5. On May 31, 2000, the Planning Commission agreed with the staff recommendation on a vote of 6-1 (Duvall dissenting), and did not grant the applicant's proposed amendments to the conditions of approval.
6. The Site Specific conditions of approval required to be completed prior to scheduling this item on the Council agenda have been submitted by the applicant, approved by the reviewing departments and the revised site plan is attached (p.19). The correspondence between the applicant and staff regarding the revisions is set forth on p.29-36.

**FACTSHEET PREPARED BY:** Jean L. Walker  
**REVIEWED BY:** \_\_\_\_\_  
**REFERENCE NUMBER:** FS\CC\FSUP129

**DATE:** September 5, 2000  
**DATE:** September 5, 2000

W44

**DATE:** May 19, 2000

105,300 square feet retail/commercial space, a 2,500 square foot bank with drive through lanes, a 4,000 square foot restaurant with drive through window, and a 3,200 square foot convenience store with gasoline pumps and a car wash, totaling 115,000 square feet of commercial floor area; adjustments and reduction of required setbacks; and a 'generic' use permit with specific required information submitted prior to development.

R. C. Krueger Development Company

Brian D. Carstens & Associates  
2935 Pine Lake Road, Suite H  
Lincoln, NE 68516

S. 14<sup>th</sup> Street, ½ mile south of Pine Lake Road

A part of Outlot A, Vavrina Meadows Addition, and a part of Lot 70 IT in the west half of Section 24, Township 9 North, Range 6 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska more particularly described on attached sheet.

13.3 acres, more or less

## B-2 Planned Neighborhood Business District

## **EXISTING LAND USE:**

Vacant

## **SURROUNDING LAND USE AND ZONING:**

AG, agricultural zoning and scattered single family uses on large lots to the south; vacant land zoned I-3 Employment Center to the west; and the currently vacant R-3 zoned Vavrina Meadows Preliminary Plat to the North and East.

## **COMPREHENSIVE PLAN SPECIFICATIONS:**

Designated as Urban Residential in the Lincoln Land Use Plan of the 1994 Lincoln/Lancaster County Comprehensive Plan.

## **HISTORY:**

On **April 12, 1999**, City Council approved Annexation #99002, Change of Zone #3157, Preliminary Plat #98029, and Special Permit #1753 for the Vavrina Meadows Community Unit Plan.

These actions changed the zoning from AG Agricultural to R-3 Residential and B-2 Planned Neighborhood Business District; allowed for a total of 618 dwelling units; allowed 339 single family lots, 40 townhome lots, 7 outlots, 2 lots of open space or multifamily, and 18 commercial lots; and annexed approximately 118.1 acres.

In the **1979** zoning update this area was converted from A-A Rural and Public Use to AG Agricultural.

## **SPECIFIC INFORMATION:**

### **UTILITIES:**

The Public Works & Utilities Department reports:

The sanitary sewer shown in Vavrina Boulevard is an 18" pipe, not 8" as shown on the plans. This is a relocated sewer and is not eligible for any subsidy.

The water system shown is satisfactory.

### **TOPOGRAPHY:**

The land generally slopes to the west.

As part of the Vavrina Meadows Preliminary Plat storm water detention cells will be constructed along the south side of Vavrina Boulevard in Lots 20 and 21, Block 20.

The Public Works & Utilities Department reports:

The grading plan must be revised. The grading of the detention pond does not match the grades for Vavrina Boulevard. All the grading for the detention must be south of the south line of Vavrina Boulevard. The grading of the detention cell must match the typical section submitted with the plat. The grading of the cell adjacent to South 14<sup>th</sup> Street must match future paving grades for South 14<sup>th</sup> Street.

## **TRAFFIC ANALYSIS:**

The plan includes 2 trip generation tables. A general note on the plans states that the square footages in tables 1 & 2 may be adjusted as long as the total trips generated does not exceed the trips shown in the tables.

The Public Works & Utilities Department reports:

The street system outside the area of the generic use permit is shown differently than shown on the approved preliminary plat. The approved plat shows a traffic circle at the intersection of 16<sup>th</sup> and Vavrina. The submitted plan shows the circle at the next intersection to the south. As shown, the circle is unsatisfactory. No driveways are allowed on the circle. Several residential lots cannot be served with driveways.

Public Works has developed a preliminary street grade and concept plan for South 14<sup>th</sup> Street since the time this preliminary plat was approved. This use permit should be revised to match the 14<sup>th</sup> Street grades. This grade will affect the grading plans and the proposed street grades. The proposed paving cross-section developed by the City will also affect right-of-way needs. As a minimum, right-of-way triangles are needed at Vavrina Boulevard and 14<sup>th</sup> Street. The proposed paving section is anticipated to be 82' wide. This will leave 9' of green space between the right-of-way and paving. Additional right-of-way to 60' east of the center line of 14<sup>th</sup> Street or provisions to construct sidewalk in an easement outside the right-of-way would be desirable. 60' of right-of-way would be desirable along major streets such as 14<sup>th</sup> Street.

The traffic impact study must be revised. Public Works is attempting to facilitate an agreement to construct 14<sup>th</sup> Street to a 1st phase urban standard that can be expanded to the ultimate paving without removing the initial paving. The references to the rural paving are not accurate. Prior to approval of this use permit, the developers must agree to pay their share of the 14<sup>th</sup> Street paving. The traffic impact study must also be revised to reflect the latest traffic information and paving assumptions for South 14<sup>th</sup> Street.

The angle parking along Vavrina Boulevard is unsatisfactory and must be removed from the plans.

## **PUBLIC SERVICE:**

The nearest fire station is located at 27<sup>th</sup> & Old Cheney Road.

## **AESTHETIC CONSIDERATIONS:**

The proposal is to submit a landscape plan for each site at the time it is developed. The landscaping around the building may have some individual theme but the landscape screen along the limits of the use permit should have continuity in the design. Continuity most likely will be lacking if each lot submits its own landscape screen plan and the screening is installed at different times. General notes 16 and 17 should be revised accordingly.

## **ANALYSIS:**

1. The standard yards for the B-2 district are:
  - 50' front yard (parking is not permitted)
  - 0' side yard, 20' when abutting a residential district
  - 0' rear yard, 50' when abutting a residential district.

The proposal is to:

Reduce the front yard along S. 14<sup>th</sup> Street and the north side of Vavrina Boulevard to 20' for parking and 40' for buildings,  
reduce the front yard along S. 15<sup>th</sup> Street to 0', and  
increase the front yard along the south side of Vavrina Boulevard to 55'.

Reduce the side yard along the south and north boundary to 5' for parking and 10' for buildings.

Reduce the rear yard along the east boundary abutting residential lots to 10' setback for buildings and 20' for parking.

### **Front yard discussion:**

Reducing the front yard along S. 15<sup>th</sup> Street a private roadway within the development is acceptable to promote the "village character" in which the buildings, the sidewalk and the roadway abut each other. Likewise reducing the front yard along the north side of Vavrina Boulevard is acceptable.

However, S. 14<sup>th</sup> Street is a major road outside of the development and there is no apparent reason why the standard 50' front yard should be reduced.

The increase in the front yard along the south side of Vavrina Boulevard is due to the proposed storm water detention facilities.

### **Side yard discussion:**

The Comprehensive Plan shows the land to the north and south as Urban Residential. The land to the north of this site is zoned R-3 and the land to the south is zoned AG. While the Vavrina Meadows Preliminary Plat showed

daycare and multiple family on the lots to the north the City has not approved such development. There is no apparent reason to reduce the standard 20' side yard setback.

**Rear yard discussion:**

The residential lots that abut the east side of this development are 100' deep. They are just 10' deeper than the minimum lot depth allowed. Due to their short depth the homes will be closer to this development. The front yard along S. 15<sup>th</sup> Street is proposed to be reduced to 0' which provides additional building area in the front of the lot. Therefore the rear yard should be increased accordingly not reduced as requested. The proposed 10' building setback extremely limits the choice of plants that could be used in the landscape screen. There is more justification to increase the standard 50' rear yard than to reduce it.

2. The application includes a request to waive the submission of the standard information at this time. Instead of a use permit site plan showing the location of buildings and parking etc the plan includes a list of uses and floor areas with a provision that specific detailed plans will be submitted with the development of individual sites. This is referred to as a 'generic use permit'. This procedure has been used before and is generally acceptable.

Included in the list of uses are a drive thru bank, a drive thru restaurant, a convenience store with gas pumps and a car wash. Due to the extended hours of operation, traffic volumes and noise associated with these uses including speakers at the remote menu boards and tellers speakers these uses should be located away from residential uses.

The proposal includes a request to permit adjustments to the floor areas of the listed uses as long as the total trips generated do not exceed the trips shown in the trip generation tables. This is acceptable as long as it is understood that the Director of Planning will consider the entire amendment including impacts on the surrounding residential area and is not obligated to approve such request.

An administrative amendment to approve the development plan for every site will not be required unless the building permit plan shows buildings, driving aisles, and parking spaces inside of the standard required rear yard and side yard abutting a residential district and the facility has a drive thru facility, gas pumps or a car wash. General notes 19 and 22 should be revised accordingly.

3. Signs

There was no request to modify the sign regulations. If the signs conform to the sign regulations for the B-2 district there is no apparent reason to require an administrative amendment to locate the signs on the use permit plans. Showing the size and location of signs on the building permit plans is acceptable. General notes 11 and 18 should be revised accordingly.

4. Parking

General note 24 states that parking will conform the Chapter 27.67 the parking regulations. It must be noted that the parking spaces in S. 15<sup>th</sup> Street cannot be counted toward the required number of parking spaces since, Section 27.67.020(c) states that all required parking spaces shall be provided on the same lot as the use for which they are required. General note 24 should be revised accordingly.

5. Height

The standard height limit is 40' and the plans limit building heights to 40'.

6. Floor area

The proposal includes 115,000 square feet of floor area on 13.3 acres. This calculates to a floor area ratio (FAR) of .198. The Comprehensive Plan used a FAR of .25 on average for new development.

**STAFF CONCLUSION:**

1. The generic use permit is acceptable provided the drive thru facilities, convenience store/gas pumps, and car wash are located west of S. 15<sup>th</sup> Street excluding the lots that abut a residential district and the standard side and rear yards abutting a residential district are devoted entirely to landscaping and open green space.
2. There is no apparent reasoning to grant the requested reduction of the standard 20' side yard and 50' rear yard when abutting a residential district should not be granted.
3. There is no justification to reduce the front yard along S. 14<sup>th</sup> Street especially considering the Public Works & Utilities Department is anticipating an 82' pavement width in S. 14<sup>th</sup> Street which would locate the edge of pavement 9' from the property line. The standard is 17' between the edge of pavement and the property line.
4. Except for the request to reduce yards abutting the residential district and along S. 14<sup>th</sup> Street the plan is acceptable with revisions as requested by the city staff.

**STAFF RECOMMENDATION:**

Conditional approval

## CONDITIONS:

### Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
  - 1.1 Revise the site plan to show:
    - 1.1.1 The standard 20' side yard and 50' rear yard are provided when abutting a residential district and the general notes include a statement that the 20' side yard and 50' rear yard when abutting a residential district shall be devoted to only landscaping and open green space.
    - 1.1.2 The standard 50' front yard is provided along S. 14<sup>th</sup> Street.
    - 1.1.3 All drive thru facilities, convenience store/gas pumps, and car washes are located west of S. 15<sup>th</sup> Street excluding lots that abut a residential district (lot 24, Block 19 and Lot 26, Block 20) and the convenient store is limited to no more than 12 gas pumps.
    - 1.1.4 A landscape screen plan is submitted for the perimeter landscape screen of the use permit, the landscaping and grading in the required side and rear yards are completed within one year following the initial occupancy of the use permit area, and the remaining landscaping and screening submitted as part of the building permit process. The general notes revised accordingly.
    - 1.1.5 The name of the record owner is corrected.
    - 1.1.6 The general notes are revised to state that an administrative amendment to approve a specific site plan on each lot will not be required unless the site includes a drive thru facility, convenience store/gas pumps and/or a car wash.  
*(If the Planning Commission chooses to recommend approval to the reduction of the rear and side yards then this condition should be expanded to require an administrative amendment when buildings, driving aisles, and parking spaces are proposed within the standard required 50' rear yard and 20' side yard when abutting a residential district.)*
    - 1.1.7 General notes are revised to state that signs shall conform to Chapter 27.69, and then an administrative amendment will not be required to locate the signs on the use permit plans.



- 1.1.8 Sidewalks are shown as required by the approved Vavrina Meadows Preliminary Plat.
- 1.1.9 General note 13 revised and utility easements indicated as requested by the May 12, 2000, LES report.
- 1.1.10 General note 21 revised to indicate that lot lines are conceptual and final plats may show different lot widths.
- 1.1.11 General note 24 revised to state that the parking spaces in S. 15 Street are in addition to the required number of parking spaces.
- 1.1.12 The sanitary sewer in Vavrina Boulevard is 18".
- 1.1.13 The grading plan is revised as requested by the Public Works & Utilities Department.
- 1.1.14 The street system and grades are revised as requested by the Public Works & Utilities Department.
- 1.1.13 The traffic impact study is revised as requested by the Public Works & Utilities Department.

2. This approval permits:

- 2.1 115,000 sq.ft. of commercial floor area.
- 2.2 A waiver to the standard required specific use permit site plan information except for drive thru facilities, convenience store/gas pumps and car washes which will be submitted as a request for an administrative amendments.
- 2.3 The reduction of the front yard along S. 15<sup>th</sup> Street from 50' to 0' and the reduction of the front yard along the north side of Vavrina Boulevard from 50' to 20' for parking and 40' for buildings.
- 2.4 Adjustments to the floor areas of the listed uses as long as the total trips generated do not exceed the trips shown in the trip generation tables on the plans as a request for an administrative amendment provided the Director of Planning shall consider the entire amendment including impacts on the surrounding residential area and is not obligated to approve such request.

General:

3. Before receiving building permits:

- 3.1 The permittee shall have submitted a revised and reproducible final plan as approved along with 5 copies to the Planning Department.

3.2 The construction plans shall comply with the approved plans.

3.3 Final Plats have been approved by the City.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:

- 4.1 Before operating and occupying each commercial use all development and construction shall have been completed in compliance with the approved plans.
- 4.2 All privately-owned improvements including landscaping and private roadways shall be permanently maintained by the owner or an appropriately established property owners association approved by the City Attorney.
- 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 4.5 The City Clerk shall file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

Prepared by:

Ray Hill  
Planner

# USE PERMIT NO. 129

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 31, 2000

Members present: Carlson, Bayer, Newman, Taylor, Duvall, Taylor and Steward; Krieser and Hunter absent.

Planning staff recommendation: Conditional approval.

Proponents.

**1. Rick Krueger**, President of Krueger Development, presented the application for the commercial area of Vavrina Meadows, consisting of 13 acres. He showed the commercial district and how it integrates with the property to the north. The application seeks to reduce the front yard setback along 14<sup>th</sup> Street and the north side of Vavrina Boulevard to 20' for parking and 40' for buildings; to reduce the front yard along South 15th Street to zero feet and increase the front yard along the south side of Vavrina Boulevard to 55'; to reduce the side yard along the south and north boundary to 5' for parking and 10' for buildings; and to reduce the rear yard along the east boundary abutting residential lots to 10' setback for buildings and 20' for parking.

Krueger also submitted the following proposed revisions to the conditions of approval:

Condition #1.1.1: 5' parking setback and 10' building setback on the north and south sides of the B-2 district. 50' building setback and 20' parking setback on the east side of the B-2 district.

Condition #1.1.2: 20' parking setback and a 40' building setback along 14th Street.

Condition #1.1.4: A landscape screen plan is submitted for the east side of the B-2 district. The landscaping and grading along the east side to be completed within one year following the initial occupancy of the use permit area, and the remaining landscaping and screening submitted as part of the building permit process. The general notes revised accordingly.

Condition #1.1.6: The general notes are revised to state that an administrative amendment to approve a specific site plan on each lot will not be required unless the site includes a drive thru facility, convenience store/gas pumps and/or a car wash.

Delete #1.1.11. They are platting to the center of 15<sup>th</sup> Street so those parking stalls will be on an individual lot as opposed to being in an outlot.

Newman is concerned about approving something that is "generic". She asked whether the applicant has any architectural building style planned. Krueger advised that they do not have a building style covenant at this time. This is the same process that was used for the generic use permit at 27<sup>th</sup> & Pine Lake.

There was no testimony in opposition.

As far as “generic”, Hill explained that the generic use permit talks about uses and setbacks, and then when each lot is developed, the applicant comes back in and asks for an administrative amendment for staff to review the details of that site plan. The staff is recommending that there be no drive-thru facilities along the east side or along the north side and south side, which are abutting residential.

Schwinn noted that the applicant has submitted a screen plan for the east side of the B-2. Hill agreed that the plan was submitted; however, the staff has found that it did not meet design standards. Staff agrees that individual lots can be landscaped to fit their needs as long as they meet design standards; however, they should have a theme landscape screen around the entire perimeter of the B-2 to set it out. The landscape screen also needs to be constructed sooner than the one year.

Schwinn inquired as to the right-of-way on South 14<sup>th</sup> Street. Hill clarified it to be 50' to the centerline, total of 100'.

Steward made the observation that the applicant's proposed amendment to Condition #1.1.1 is doing nothing but waiving the standards without seeing what the specific use is. Hill stated that the staff agreed to the generic use permit, but does not believe that setbacks should be waived on a generic use permit. Steward does not believe that the case can be made that they need that waiver of the setback without the specific uses being set forth. Hill added that the additional setback should be provided along 14<sup>th</sup> Street with the reduction allowed along 15<sup>th</sup> to give the character of a village.

Bayer asked whether the staff has the authority to waive the setback administratively when approving the specific site plan. Hill answered, “no, they would have to amend the use permit and request the waiver through the Planning Commission.” When the yard is established, then the individual uses can be approved administratively.

Carlson noted that the applicant wants to expand both toward 15<sup>th</sup> Street and 14<sup>th</sup> Street with its revised Condition #1.1.1.

Carlson noted that there has been some talk about 120' rights-of-way, but they do not exist now. He wonders about the impact of Condition #1.1.1 of the staff versus Condition #1.1.1 by the applicant. Hill advised that the standard is 50', using wherever the right-of-way line is located at the time they come in for a building permit, unless the Planning Commission and City Council adjusts it to a lesser setback.

Rick Peo noted that the staff report refers to 60' of right-of-way. The B-2 use permit regulations indicate that by a condition of approval, the Planning Commission/City Council can require additional right-of-way to be in conformance with the Comprehensive Plan. Currently, the Comprehensive Plan only has a 50' right-of-way on South 14<sup>th</sup>--not 60'. The Planning Commission could not require an additional 20' at this time. Peo has a concern in the sense that preliminary plats are valid for 10 years. If they are over 5 years old, and the conditions have changed, the city may require a new preliminary plat. The primary practice has been that if you have a valid preliminary plat, you get to develop in accordance with those standards. Between 5 and 10 years, we could require a new preliminary plat if the standards have changed. If the plat is less than 5 years old, he believes we are stuck with the 50' of right-of-way.

Carlson again asked what the impact would be. Peo suggested that if the city ever wants to expand the road and you have waived the setbacks, you've actually put the buildings quite a bit closer to the street. One of the Planning Commission's duties in the use permit is that the Planning Commission can require a greater setback than the minimum. With a generic use permit, a lot of the Planning Commission's decision making is taken away. Conversely, waivers probably should not be granted on a generic use permit.

Nicole Fleck-Tooze of Planning staff showed a draft "work in progress" map conveying the concept of primary public way corridors in the growth areas. As this use permit is raised, there are issues that are being considered in the public way corridor study, i.e. what should the cross-section look like. The staff is in the process of studying that and hoping to bring forward a Comprehensive Plan Amendment yet this summer. This area is within one of the primary public way corridors from Yankee Hill Road to Pine Lake Road.

Hill clarified that the preliminary plat on this site was approved in April of 1999.

#### Response by the Applicant

Krueger advised that the final plat for this area has been submitted so that should take away the concern as to whether they are coming forward with a final plat. Therefore, the idea that it will be more than 5 years before this develops is moot.

Krueger further pointed out that this application has a floor area ratio of .198, which is under the .25 in the Comprehensive Plan. The floor area ratio will determine the size of the buildings and the scope of the development. This application does not seek to overbuild. If we are going to talk about urban villages, we need a little more variation to enable the developer to deal with the setbacks. Krueger showed a photo of a 40' setback on a major arterial, pointing out that the building is not too close to the road.

Bayer noted that with a four-lane road, there is 100' right-of-way. How much is left over that is not concrete? Krueger explained that a four-lane road is 26' wide on each side. He also showed a picture of a 20' setback from the road as an example of buildings which were done under a generic use permit.

With the photographs, Krueger was attempting to show that the flexibility that has been granted in the past has come to fruition.

The picture of the 40' setback is applicable to what is being requested on 14<sup>th</sup> Street in this application.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 31, 2000

Schwinn moved approval of the staff recommendation of conditional approval, seconded by Newman and carried 6-1: Schwinn, Newman, Carlson, Steward, Bayer and Taylor voting 'yes'; Duvall voting 'no'; Krieser and Hunter absent. None of the amendments requested by the applicant were granted.